

PANISH SHEA & BOYLE, LLP
BRIAN J. PANISH, State Bar No. 116060
panish@psblaw.com
PETER KAUFMAN, State Bar No. 269297
pkaufman@psblaw.com
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
Telephone: 310.477.1700
Facsimile: 310.477.1699
Attorneys for PLAINTIFF

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

IN RE: CARDTRONICS ATM FEE
NOTICE LITIGATION

Case No.: 11-md-2245-BEN (BLM)

This Document Relates to:

*THOMAS CHAYRA, et al. v.
CARDTRONICS, INC.*

**PLAINTIFF THOMAS CHAYRA'S
RULE 26(A)(1) INITIAL
DISCLOSURE**

Pursuant to the Court's April 9, 2012 Order Directing Rule 26 Compliance And Setting Case Management Conference For Defendant And Plaintiff Chayra Only, Plaintiff Thomas Chayra ("Plaintiff") hereby submits the following initial disclosure to Defendant Cardtronics Inc. ("Cardtronics"). The information in this disclosure is based on information reasonably available to Plaintiff at this time. Plaintiff reserves the right to amend or supplement this disclosure, pursuant to Fed. R. Civ. P. 26(e), based upon its continuing investigation and discovery.

By making this disclosure, Plaintiff does not represent that he is identifying every witness, document or tangible thing possibly relevant to this lawsuit. Nor does Plaintiff waive his right to object to production of any document or tangible thing disclosed on the basis of any privilege, the work product doctrine, relevancy, undue burden, or any

1 other valid objection. Plaintiff's disclosure represents a good faith effort to identify
 2 information that he reasonably believes he may use to support his claims that that he is
 3 aware of as of this date. Accordingly, this disclosure should not be construed as
 4 constituting all of the facts, evidence or other information that may exist or that may
 5 eventually be established in support of the claims that may be asserted in this action.

6 **A. Knowledgeable Individuals**

7 Pursuant to Fed. R. Civ. P. 26(a)(1)(A)(i), and subject to further amendment and
 8 supplementation, Plaintiff states that the following individuals are likely to have
 9 discoverable information that Plaintiff may use to support his claims, unless solely for
 10 impeachment, with respect to the following subjects of the information:

11 **Chayra, Thomas, 5235 Lorna Street, Los Angeles, California:**

12 Knowledgeable about the requisite notices on the machine at the time of
 13 use; as well as the fees charged on the date of use.

14 **B. Documents and Tangible Things**

15 Pursuant to Fed. R. Civ. P. 26(a)(1)(A)(ii), and reserving all objections and
 16 privileges regarding the production and discoverability of said documents and tangible
 17 things, Plaintiff provides a description by category and location of, all documents and
 18 tangible things in Plaintiff's possession, custody or control that Plaintiff may use to
 19 support his claims. Plaintiff reserves the right to amend and supplement this list.

20 a. Photographs depicting the ATM on the date of use without the requisite
 21 signage;

22 b. Documents reflecting the fee that was charged by the ATM;

23 Plaintiff also identifies documents that he will produce in response to discovery
 24 requests from Defendant, and documents Defendant or third parties may produce in
 25 response to Plaintiff's discovery requests and subpoenas. Plaintiff reserves the right to
 26 supplement this list pursuant to Fed. R. Civ. P. 26(e).

27 The majority of these documents are in the possession of Plaintiff's counsel of
 28 record in Los Angeles, California.

1 **C. Computation of Damages**

2 Damages are enumerated by statutes at issue, 15 U.S.C. § 1693 et seq., and 12
3 C.F.R. § 205 et seq. Plaintiff seeks, on behalf of himself and the proposed class,
4 statutory damages, costs and attorney's fees, all of which are expressly made available
5 by statute, 15 U.S.C. § 1693m. Plaintiff does not seek actual damages. Plaintiff also
6 seeks a permanent injunction enjoining Defendants from continuing their unlawful
7 practice of negligently, willfully, or knowingly violating the provisions of the EFTA
8 which prohibit the improper imposition of ATM fees.

9 **D. Insurance Coverage**

10 Not applicable.

11
12 DATED: April 30, 2012

PANISH SHEA & BOYLE LLP

13
14
15 By: /S/ Peter L. Kaufman

Peter Kaufman

Attorneys for PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of April, 2012, I electronically filed **PLAINTIFF THOMAS CHAYRA'S RULE 26 (a)(1) INITIAL DISCLOSURE** with the Clerk of the Court using the CM/ECF System and that a true copy was forwarded via electronic mail to:

Myra Hannum
COOLEY, LLP
4401 Eastgate Mall
San Diego, CA 92121-1990
mhannum@cooley.com

By: _____


Esperanza E. Jones